

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

**MISSOURI PRIMATE FOUNDATION,
et al.,**

**Plaintiffs and
Counterclaim Defendants,**

v.

**PEOPLE FOR THE ETHICAL
TREATMENT OF ANIMALS, INC., et al.,**

**Defendants and
Counterclaim Plaintiffs.**

Case No. 4:16-cv-02163

**COUNTERCLAIM PLAINTIFFS’
MOTION TO COMPEL THE DEPOSITION OF
COUNTERCLAIM DEFENDANT CONNIE BRAUN CASEY**

Pursuant to Rules 26, 30, and 37 of the Federal Rules of Civil Procedure, Counterclaim Plaintiffs, People for the Ethical Treatment of Animals, Inc. and Angela Scott a/k/a Angela G. Cagnasso (together, “Plaintiffs”) hereby move for an order compelling Counterclaim Defendant Connie Braun Casey (“Casey”) to appear for deposition. In support of this motion, Plaintiffs’ state as follows:

1. On July 6, 2018, Plaintiffs served a notice for Casey to appear for deposition on August 8, at the offices of her attorneys. (Exhibit A to Declaration of Martina Bernstein (“Bernstein Decl.”)) Both the date and the location were negotiated and agreed to in advance by Casey’s counsel. (Bernstein Decl. ¶ 2.)

2. On July 20, Casey’s counsel informed Plaintiffs’ counsel that they had been instructed by Casey “to conduct no other work on this case besides potentially settling this matter, including any discovery.” (*Id.* ¶ 3.) During the ensuing days, however, after Plaintiffs

rejected Casey's inadequate settlement proposal, Casey's counsel made no further efforts to pursue settlement negotiations. (*Id.*)

3. Indeed, when Plaintiffs' counsel Martina Bernstein scheduled a conference pursuant to Local Rule 37-3.04 to discuss Casey's upcoming deposition and other discovery matters, at a date and time provided by Casey's counsel (Monday, July 30, at 2 p.m.), Casey's counsel failed to participate and appeared to have no further time to devote to this matter. (*Id.*)

4. Notwithstanding several requests by Ms. Bernstein, Casey's counsel offered no further dates and times for conferring. (*Id.* ¶ 4.)

5. Given Casey's counsel's unwillingness or inability to confer by telephone, in an abundance of caution, on July 30, Plaintiffs' counsel wrote to confirm whether Casey's duly noticed deposition would still proceed as scheduled. (*Id.* ¶ 5.) Casey's counsel Brian Klar responded on July 31, "The depo will NOT proceed as scheduled." (*Id.*) As apparent justification for the unilateral cancellation, Mr. Klar made another cryptic reference to "possibilities of settlement," but still made no actual attempts to pursue any settlement negotiations. (*Id.* ¶ 6.)

6. Mr. Klar also failed to respond to several requests from Plaintiffs' counsel to even schedule a conference—and he proposed no date in the future by which their client would appear for deposition. (*Id.*)

WHEREFORE, Plaintiffs respectfully request that the Court enter an Order in the form submitted herewith,

ORDERING Casey to appear for deposition no later than one week from the date of the order and warning Casey that she will suffer a default judgment if she continues to obstruct discovery; and

GRANTING Plaintiffs an award of costs and attorneys' fees relating to the motion to

compel; and

GRANTING that Plaintiffs have 14 days from the date of the Order granting this motion to file an affidavit detailing these fees and costs.

Dated: August 1, 2018

Respectfully submitted,

/s/ Martina Bernstein
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*Attorneys for Defendants/
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CERTIFICATE OF SERVICE

I certify that on August 1, 2018, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, by which notification of such filing was electronically sent and served to the following:

Brian Klar, bklar@lawsaintlouis.com
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And was served by regular mail on the following:

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/s/ Jared S. Goodman